

But I am of opinion that the complainant's exception to the accounts A and B, because of the credit given to the first purchaser for \$161 25 cash paid by him for ground-rent and interest thereon, must be sustained.

Without intending to express an opinion upon the general question of the obligation of a purchaser at a chancery sale to look to the title, and to the incumbrances upon it, I am altogether satisfied that the agent of the purchaser in this case knew of this incumbrance, and that the property was sold subject to it. This clearly appears by the depositions of the agent, and the trustee. These depositions are admitted in evidence as if duly taken and regularly introduced into the cause, but they are excepted to, as inadmissible and incompetent for the purpose for which they are introduced, that is, for the purpose of showing that the property was sold subject to the ground-rent in arrear. The advertisement, though it speaks of the ground-rent to which the property was subject, does not say anything of rent in arrear, and the exception, it is presumed, rests upon the idea that it is not competent by parol to show any other incumbrance than that spoken of in the advertisement. The advertisement, however, is not the contract of the parties; and it has been the constant practice of trustees to introduce other terms of sale, and to make known to bidders at the time of the sale facts and circumstances affecting the title to, or value of the property, not mentioned in the advertisement, and parol proof of such facts and circumstances has always been admitted, when it became necessary to resort to it to vacate or uphold the sale. It moreover appears in this case, by the statement of the agent of the purchaser, that a paper annexed to his deposition and returned with it was shown to him by the trustee at the time of the sale, and before the bidding commenced, by which it appeared that the ground-rent in question was then due and in arrear; the trustee stating that he knew of no other claims against the property than that paper showed—there being upon it, besides the rent in arrear, a statement of the amount due upon the complainant's mortgage.